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6 UNITED STATES DISTRICT COURT
7 FOR THE EASTERN DISTRICT OF WASHINGTON

8 UNITED STATES OF AMERICA,

9 Plaintiff,

10 v.
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12 MICHAEL LUIS IBARRA,

13 Defendant.
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Case No. 2:21-CR-0173-TOR-1

PROTECTIVE ORDER REGARDING
COMPUTER FORENSIC REVIEW
PROCEDURES FOR CHILD
PORNOGRAPHY CONTRABAND

16 BEFORE THE COURT is the government's Motion for Protective Order re:
17 Computer Forensic Review Procedures. ECF No. 27. The motion was submitted for
18 hearing without oral argument. Having reviewed the record and the files therein, the
19 Court is fully informed. For good cause shown, the motion is granted.

20 1. The government's Motion for Protective Order Regarding Computer Forensic
21 Review Procedures (ECF No. 27) is GRANTED.

22 2. IT IS FURTHER ORDERED that 18 U.S.C. § 3509(m) applies to this case, and
23 the Court is required to deny defense requests to copy, photograph, duplicate, or
24 otherwise reproduce material constituting child pornography if the Government makes
25 the material reasonably available to the Defendant and provides an ample opportunity
26 for the defense to examine it at a government facility. *See* 18 U.S.C. § 3509(m).

27 3. IT IS FURTHER ORDERED that, in order to comply with 18 U.S.C.
28 § 3509(m), and to allow the Defendant the greatest opportunity to prepare an effective
PROTECTIVE ORDER REGARDING CHILD PORNOGRAPHY FORENSIC
REVIEW - 1

1 defense in preparation for trial in this matter, the Government will make a true forensic
2 copy of images and extractions from devices and media containing alleged child
3 pornography contraband at issue in the above-referenced case. The Government will
4 make that forensic image reasonably available to the Defendant and provide ample
5 opportunity for the defense team to examine it at a government facility in Spokane,
6 Washington. The parties may readdress the Court if there is a need for additional or
7 after-hours access during the course of litigation or additional forensic review.

8 4. IT IS FURTHER ORDERED that the defense forensic examination will be
9 conducted in an interview room monitored by closed-circuit television (“CC-TV”),
10 without audio feed. While the TV with non-audio feed will ensure the integrity of FBI
11 space and security of its occupants, the video feed is not of sufficient detail or at an
12 angle that would reveal defense strategy. The Government and its agents expressly agree
13 that no attempt will be made to record any audio from the workstation and that no
14 attempt will be made to observe the defense team’s work product or computer monitor
15 screen at any time. The defense expert may review the feed to ensure that defense
16 strategy is not being compromised at any time while conducting the forensic review.

17 5. IT IS FURTHER ORDERED that the defense team¹ shall not make, nor
18 permit to be made, any copies of the alleged child pornography contraband pursuant to
19 this Protective Order and shall not remove any contraband images from the government
20 facility. The defense expert will be allowed to copy any file that is not contraband and
21 compile a report (without contraband images/videos) documenting the examination on
22 removable media at the discretion of the defense expert.

23 6. IT IS FURTHER ORDERED that the defense expert and investigator will
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25 ¹ For purposes of this Protective Order, the term “defense team” refers solely to the
26 Defendant’s counsel of record (“defense counsel”), the Defendant’s designated expert
27 (“defense expert”), and a defense investigator.
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1 leave at the government facility any equipment, including hard drives, which contain
2 child pornography contraband that is identified during forensic evaluation.

3 7. IT IS FURTHER ORDERED that for the purpose of trial, the Government
4 agrees to make available a digital copy of any government trial exhibit that contains
5 contraband, which will be kept in the custody and control of the case agent. Upon
6 reasonable notice by the defense, the case agent will also maintain for trial digital copies
7 of any proposed defense exhibit that contains contraband. If the defense team intends to
8 offer, publish, or otherwise utilize any government or defense exhibit contained on the
9 digital copy maintained by the case agent during trial, the case agent shall assist the
10 defense team in publishing or utilizing the exhibit that contains contraband upon
11 notification by the defense team.

12 IT IS SO ORDERED. The Clerk shall enter this Order and furnish copies to
13 counsel.

14 Dated December 22, 2021.




THOMAS O. RICE
United States District Judge